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CrI.O.P.No.22169 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.01.2023

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

CrI.O.P.No.22169 of 2019 and
CrI.M.P.No.11492 of 2019

Pothish.K

... Petitioner / Accused No.3

Vs.

1.State Rep by

The Inspector of Police,

M-6, Police Station,

Manali, Chennai.

(Crime No.Not known of 2019) ... Respondent / Complainant

2.N.Kumar

... Respondent/Defacto Complainant

Prayer : Criminal Original Petition has been filed under Section 482 of Cr.P.C. to call for the records in Crime No.208 of 2019 pending on the file of the first respondent and to quash the same.

For Petitioner

... Mr.Leelesh Sundaram. B for
M/s.Nathan & Associates

For Respondents

... Mr.A.Gopinath,
Govt. Advocate (CrI.Side) for R1
N.Saravanan for R2



Crl.O.P.No.22169 of 2019

ORDER

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2. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl.Side) appearing for the first respondent and the learned counsel for the second respondent.

3. The petitioner is the third accused. On the complaint given by the second respondent by alleging that the second respondent is the tenant of the petitioner's father who is the first accused. The second accused is the wife of the first accused and the mother of the third accused. The second respondent is running a business of selling construction materials at the premises owned by the first accused and let it out to the second respondent for rent. As there was some dispute with regard to non-payment of rent, the petitioner along with his father and mother trespassed into the second respondent's shop and threatened the staff and damaged the properties. It is further stated that the petitioner's father brought 15 henchmen and



Crl.O.P.No.22169 of 2019

damaged the materials kept in the second respondent's shop.

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4. The learned counsel for the petitioner submitted that the petitioner was a student at that point of time and he was not present in the place of occurrence; the attendance register of the petitioner's College maintained during the relevant point of time would show that the petitioner was all along present in the College; the petitioner was implicated in this case just to harass his parents; the College Authorities have also issued a certificate by stating that the petitioner was present in the College during the relevant point of time.

5. The learned Government Advocate (Crl.Side) submitted that the authenticity of the certificate issued by the College can be tested only during the course of the investigation and it is pre-matured to claim that the FIR should be quashed against this petitioner.

6. The fact that the petitioner raised the ground of *alibi* by stating



Crl.O.P.No.22169 of 2019

that the petitioner was not present at the place of occurrence during the relevant point of time, but he was present in the College. It is submitted by the learned counsel for the petitioner that the College Authorities have also given certificate by asserting that the petitioner was present in the College at the time of occurrence. The fact of *alibi* has to be proved only by producing the relevant materials and that cannot be taken into consideration now. However, the Investigating Agency has got the duty to verify the documents submitted by the petitioner to prove that he was not in the place of occurrence at the relevant point of time. Since the matter is pending from the year 2019, the first respondent is directed to complete the investigation after considering the materials produced from the side of the petitioner also and file a final report within a period of two weeks.

7. In view of the above observations, this Criminal Original Petition is disposed and the the first respondent is directed to complete the investigation after considering the materials produced from the side of the petitioner also and file a final report within a period of two weeks from the date of receipt of a copy of this order. Consequently, connected



CrI.O.P.No.22169 of 2019

miscellaneous petition is closed.

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31.01.2023

Index: Yes/No

Internet: Yes/No

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To

1.The Inspector of Police,
M-6, Police Station,
Manali, Chennai.

2.The Public Prosecutor,
High Court, Madras.



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Crl.O.P.No.22169 of 2019

R.N.MANJULA ,J.

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Crl.O.P.No.22169 of 2019 and
Crl.M.P.No.11492 of 2019

31.01.2023